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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-------------------|
| 10/812,833 | 03/30/2004 | Erwin Haller | 08146.0001U1 | 3114 |
| 23859 | 7590 | 11/02/2006 | EXAMINER | |
| NEEDLE & ROSENBERG, P.C. SUITE 1000 999 PEACHTREE STREET ATLANTA, GA 30309-3915 | | | | WUJCIAK, ALFRED J |
| ART UNIT | | PAPER NUMBER | | |
| | | 3632 | | |

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/812,833 | HALLER, ERWIN | |
| | Examiner | Art Unit | |
| | Alfred Joseph Wujciak III | 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10/02/06.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 and 15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for the serial number 10/812,833, DEVICE AND METHOD FOR SPRINGING A VEHICLE SEAT, filed on 3/30/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 4, 7 and 10, "vehicle seat" is indefinite because it cites combination/subcombination problem. "Vehicle seat" is not positively cited in preamble of claim 1.

Claim 1 recites the limitation "the borders" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the borders" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-10 are rejected as depending on rejected claim 1. Claims 12-13 and 15 are rejected as depending on rejected claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # Re. 35,572 to Lloyd et al.

Lloyd et al. teaches a spring device (figure 4) having at least one air spring (48, 138) arranged between a seat part (50) and a lower part (40) for height adjustment. The device includes a control device (102) for supplying air to the spring. The device includes means (104) of control device that control the air flow to the valve. Furthermore, Lloyd et al. teaches the range of force-path air spring characteristic (columns 2 and 5-6). The device includes at least one pneumatic directional control valve (142) for supplying the additional air volume. The device includes an adjustment device (54,56) for the automatic height adjustment of the seat part at the start a use operation by a user having a predefined weight. The device in Lloyd's invention has the ability of controlling the air volume supplied to air spring in comfort range of travel and the air volume is being blocked/switched off by the control device (see column 2 lines 7-49 and columns 5-6).

The use of the product as disclosed by Lloyd would inherently lead to the method steps of claims 11 and 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 6,237,889 to Bischoff.

Lloyd et al. teaches the adjustment device but fails to teach the adjustment device includes a regulator switch that is arranged in the region of the armrest of the vehicle seat. Bischoff teaches the regulator switch (210) that is arranged in the region of the armrest of seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the regulator switch to Lloyd et al.'s adjustment device as taught by Bischoff to provide control in the adjustment device to increase or decrease the damping pressure of the adjustment device.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al.

Art Unit: 3632

Lloyd et al. teaches the device provides air volume control in the spring but fails to teach the additional air volume is supplied or discharged greater than 0.11 in the first range of the force-path air spring characteristic and is either 0.01 or greater than 0.01 in the further range. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the air volume control to 0.11 in supply or discharge and 0.01 or greater than 0.01 in the further range to increase comfort for a rider when the external impact occurs on the vehicle.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Response to Arguments

Applicant's arguments filed 10/2/06 have been fully considered but they are not persuasive.

The applicant argues that Lloyd et al. fails to teach "switches off the additional air supply both when the seat moves upward or downward beyond the predefined comfort zone where the additional air supply is switched on." The examiner disagrees with the applicant Lloyd et al.'s invention has the ability of controlling the air supply by switching or blocking it from entering the air spring to provide specific comfort level for the rider.

Art Unit: 3632

The applicant argues Lloyd et al. fails to teach the method. The examiner disagrees with the applicant because since the specification in Lloyd et al.'s invention explain the process of using the vehicle seat by controlling certain amount of air flow. Since Lloyd teaches all elements, it would inherently lead to the method steps of claims 11-13 and 15.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Primary Examiner
Art Unit 3632

10/27/06


A. JOSEPH WUJCIAK III
PRIMARY EXAMINER
3632 TECHNOLOGY CENTER